

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7174

Joint petition of Vermont Electric Power Company, Inc.)
(VELCO), Central Vermont Public Service Corporation)
(Central Vermont), and Green Mountain Power)
Corporation (Green Mountain Power) for approval of the)
following: (1) a certificate of public good for formation)
of Vermont Transco LLC (Vermont Transco), a Vermont)
limited liability company, to conduct a business for the)
transmission of electricity; (2) the sale of substantially)
all of the assets of VELCO to Vermont Transco; (3))
acquisition of a controlling interest in Vermont Transco)
by VELCO, by CVPS and by GMP; and (4) issuance of)
bonds and limited liability company Units by Vermont)
Transco, and the related mortgaging or pledge of its)
assets)

Order entered: 6/20/2006

PRESENT: Thomas Lyle, Hearing Officer

APPEARANCES: Stewart H. McConaughy, Esq.
Gravel and Shea
for Vermont Electric Power Company, Inc.

James Porter, Esq.
for Vermont Department of Public Service

Benjamin Marks, Esq.
Sheehey Furlong & Behm P.C.
for Green Mountain Power Corporation

Kenneth Picton, Esq.
for Central Vermont Public Service Corporation

William Piper, Esq.
Primmer Piper Eggleston & Cramer P.C.
for the Public Power Utilities ¹

1. The Public Power Utilities include: City of Burlington Electric Department; Vermont Electric Cooperative, Inc.; Washington Electric Cooperative, Inc.; Barton Village Inc. Electric Department; Village of Enosburg Falls Water & Light Department; Town of Hardwick Electric Department; Village of Hyde Park Electric Department;

I. INTRODUCTION

This proceeding primarily involves an examination of the appropriateness of a request by Vermont Electric Power Company, Inc. ("VELCO"), Central Vermont Public Service Corporation ("CVPS"), and Green Mountain Power Corporation ("GMP"), hereafter referred to as the Joint Petitioners, to form Vermont Transco, LLC, a limited liability company ("Vermont Transco"). If approved, Vermont Transco would acquire, and VELCO would transfer, substantially all of VELCO's transmission and related assets, assume most of VELCO's liabilities, and become responsible for raising additional investment capital to assure the timely construction and maintenance of new and existing electric transmission infrastructure in Vermont. Coincident with the proposed equity offering by Vermont Transco, the Board is also asked to rule on the merits of the Joint Petitioners' request to own a controlling interest in Vermont Transco, as defined in 30 V.S.A. § 107. Simultaneously with these proposed transactions, VELCO would become the manager of Vermont Transco and, pursuant to a management service agreement, provide personnel, management, operational support and maintenance services, as well as assume other responsibilities, as necessary, with respect to Vermont's transmission system.

The proposed transaction promises to deliver income tax savings to Vermont's retail electric utilities. Those savings would then be passed on to Vermont customers in the form of lower rates than they would otherwise pay.

The structure of the proposed transaction is designed to be transparent to VELCO's wholesale customers and suppliers, retail customers in Vermont and all other stakeholders. As such, the proposed transaction would appear to be a seamless transition to those who are not owners of Vermont Transco or VELCO, and there will be no material change in the operation, maintenance, supervision and regulation of Vermont's transmission system or the delivery of electric service to Vermonters. Importantly, the proposed transaction would have no impact on

Village of Jacksonville Electric Department; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Northfield Electric Department; Village of Orleans Electric Department; Town of Readsboro Electric Light Department; Town of Stowe Electric Department; and Swanton Village Inc. Electric Department.

either the Public Service Board's ("Board") or the Department of Public Service's ("Department") jurisdictional oversight of VELCO or Vermont Transco.

After careful consideration of the record evidence, I conclude that the proposed transactions are in the public good. Therefore, I recommend that the Public Service Board ("Board") approve the petition. The formation of a new limited liability company for the purpose of owning Vermont's transmission system and raising the additional investment capital that is necessary to finance reliability upgrade projects will create new cost savings to VELCO's owners and Vermont ratepayers in the form of lower income tax obligations.

II. PROCEDURAL HISTORY

On March 29, 2006, the Joint Petitioners filed a petition with the Board requesting approval of: (1) a certificate of public good, pursuant to 30 V.S.A. § 102, for the formation of Vermont Transco, a limited liability company, to conduct a business for the transmission of electricity; (2) the sale of substantially all of the assets of VELCO to Vermont Transco; (3) the acquisition of a controlling interest in Vermont Transco by VELCO, CVPS and GMP; and (4) the issuance of bonds and limited liability company units by Vermont Transco, and the related mortgaging or pledge of its assets, pursuant to 30 V.S.A. §108.

On May 3, 2006, the Joint Petitioners amended the petition to seek Board issuance of a certificate of public good, pursuant to 30 V.S.A. § 231(a), that would allow Vermont Transco to own and operate a business for the transmission of electricity in the State of Vermont.

On May 5, 2006, the Department of Public Service ("Department") filed a letter with the Board stating that it had reviewed the filing. Based on its preliminary review, the Department reported that it could not recommend Board approval of the petition without the benefit of an investigation.

On May 19, 2006, William Piper, Esq., of Primmer Piper Eggleston & Cramer, P.C., filed a Motion to Intervene on behalf of the City of Burlington Electric Department, Vermont Electric Cooperative, Inc., Fourteen Municipal Electric Departments² and Washington Electric

2. The 14 Municipal Utilities include: Barton Village Inc. Electric Department; Village of Enosburg Falls Water & Light Department; Town of Hardwick Electric Department; Village of Hyde Park Electric Department; Village of Jacksonville Electric Department; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Northfield Electric Department; Village of Orleans Electric Department; Town of Readsboro Electric Light

Cooperative, Inc. (herein, collectively referred to as the "Public Power Utilities"). In their motion to intervene, the Public Power Utilities stated that they generally supported the petition. As part owners of VELCO, however, the Public Power Utilities stated that they were also obligated to ensure that an equitable sharing of the potential benefits is maintained under the proposed limited liability company structure. No party objected to the Motion to Intervene.

On May 23, 2006, a Prehearing Conference was held for the purpose of establishing a procedural schedule and discussing specific issues for the parties to address in this proceeding. The issues included, among others, identifying the statutory authority under which the Board would continue its jurisdiction over the operations of Vermont Transco, the effect of the proposed transaction, if any, on existing certificates of public good issued to VELCO, the effect, if any, on current and future planning processes, and the equitable sharing of current and prospective benefits resulting from the creation of Vermont Transco.

On June 5, 2006, the Joint Petitioners submitted a second amended petition seeking the Board's consent, pursuant to 30 V.S.A. § 232, to the issuance of bonds and equity units by Vermont Transco, and the related mortgaging or pledging of assets. Additionally, the Joint Petitioners' second amended petition requested the Board's consent to extend to Vermont Transco the authority to issue evidence of indebtedness payable within one year up to a total outstanding balance of \$95,000,000, that being the amount authorized by the Board in its letter dated December 16, 2005, to VELCO in Docket 7129.

Along with the second amended petition, VELCO filed a stipulation with the Board acknowledging that the Board's jurisdiction over Vermont Transco clearly exists under Chapters 3 and 5 of Title 30. VELCO further stipulates and agrees, on its behalf and on behalf of Vermont Transco, that they and each of them will be forever estopped from claiming or asserting that the Board and the Department have any less jurisdiction over Vermont Transco than the Board or the Department currently have over a corporation that is subject to the provisions of Chapter 3 and Chapter 5 of Title 30. Further, VELCO, on its behalf and on behalf of Vermont Transco, irrevocably waives their rights to argue for any other ruling that is contrary to the stipulation.

III. STIPULATION

On June 5, 2006, the Joint Petitioners filed with the Board a stipulation and waiver agreement ("Agreement") between the Joint Petitioners, the Department and the Public Power Utilities ("Stipulating Parties"). The Agreement, which was accompanied by a stipulated proposal for decision, states that the parties agree to the admission of the prefiled testimony and exhibits of John Donleavy and Derek HasBrouck into the record, and the remarks of Mr. HasBrouck at the Prehearing Conference, as though given under oath.³ The parties further stipulate and agree to the admission into the record of the FERC Policy Statement on Income Tax Allowances⁴ and to the admission into the record, as Exhibit VELCO DWH-12, of a spreadsheet produced by Mr. HasBrouck on May 31, 2006, in response to my request at the prehearing conference.

The Stipulating Parties have also agreed to waive their rights, under 3 V.S.A. § 811, to request an opportunity to file exceptions, and to present briefs and oral argument, to any findings and conclusions I may make in this proceeding as long as such findings and conclusions are materially consistent with the stipulated proposal for decision.

IV. FINDINGS OF FACT

Based on the record evidence, I hereby make the following findings in accordance with 30 V.S.A. § 8.

1. VELCO is a Vermont corporation, subject to the jurisdiction of the Public Service Board. VELCO's principal business is the transmission of electric power at high voltage within the State of Vermont. Petition at 1.

2. CVPS and GMP are Vermont corporations subject to the jurisdiction of the Public Service Board. Their principal business is the retail distribution of electric power. Petition at 1 and 2.

3. VELCO proposed to create a new limited liability company, Vermont Transco LLC. Upon formation, Vermont Transco would acquire substantially all of VELCO's transmission and

3. The prefiled testimony of Mr. HasBrouck was subsequently revised, with the consent of the parties, in order to correct one error. Additionally, the parties consented to another subsequent revision to Exhibit VELCO DWH-9, which was replaced with a corrected Exhibit VELCO DWH-9.

4. Subsequently admitted as Exh. VELCO DWH-13 after the prehearing conference.

related assets, assume most of VELCO's liabilities, and become responsible for the electrical transmission system in Vermont. Donleavy pf. at 4; HasBrouck pf. at 17.

4. As a limited liability company, Vermont Transco would not be subject to income taxes on its earnings. Such earnings would instead be passed through to Vermont Transco's owners/members. HasBrouck pf. at 5.

5. As a result of the formation of Vermont Transco and the proposed issuance of equity units in 2006, it is anticipated that Vermont electric distribution utilities would save approximately \$637,000. These savings are partly a result of an estimated \$266,000 reduction in income taxes that VELCO had previously included in its revenue requirement, and partly as a result of eliminating \$371,000 in taxes paid on the dividends received by VELCO's taxable owners. Exh. VELCO DWH-12.

6. There would be no substantive change in the operation of Vermont's transmission system. Donleavy pf. at 4.

7. VELCO would become the manager of Vermont Transco and, pursuant to a management service agreement with Vermont Transco, would provide personnel, management, operational support and maintenance services, as well as assume other responsibilities that are necessary for the smooth operation of Vermont's transmission system. Donleavy pf. at 4-5; HasBrouck pf. at 4-5; exh. VELCO DWH-2.

8. VELCO would continue to be owned and controlled as it currently has been. Donleavy pf. at 4.

9. The transactions involving the formation of Vermont Transco and subsequent transfer of assets and liabilities from VELCO to Vermont Transco are structured in a manner that would appear to VELCO's vendors, suppliers, customers and other stakeholders to be a seamless and transparent transition. Donleavy pf. at 4-5; HasBrouck pf. at 5.

10. Equity in Vermont Transco would consist of Class A and Class B units. Class A unit-holders would be entitled to a return of \$1.15 per unit annually, plus an additional monetary distribution to pay for the income taxes owed on Class A earnings, if the unit-holder is subject to income taxes. Class B unit-holders would earn \$1.33 per unit annually. Each unit, regardless of class, would be entitled to one vote. HasBrouck pf. at 7, 10-12.

11. In 2006, up to 7,800,000 Class A units and up to 800,000 Class B units are anticipated to be issued by Vermont Transco. The combined offering, if subscribed to as VELCO anticipates, would be structured in a manner that fairly apportions the savings and benefits flowing from the change in ownership of Vermont's transmission assets from VELCO to Vermont Transco. The apportionment of such savings is designed to follow as closely as possible to the average network loads of the Vermont electric distribution companies (i.e., the Public Power Utilities, CVPS and GMP) in 2005. HasBrouck pf. at 7, 11-12; Donleavy pf. at 6.

12. The Stipulating Parties agree that it is appropriate to make available to all Vermont electric distribution companies an opportunity to share in the overall Vermont savings resulting from the issuance of equity in Vermont Transco. Such sharing would be in proportion to the amount of equity subscribed to and paid for by each tax and tax-exempt electric distribution company. To accomplish this result, it would be necessary to make available to the tax-exempt subscribers a certain number of Class B units which provide for a higher return to the unit-holders. Stipulated Proposal for Decision and Agreement; HasBrouck pf. at 12-13.

13. Debt and equity capital raised by Vermont Transco would be used to pay down short-term debt and fund the cost of upgrading the Vermont electric transmission system. In compliance with existing bond indentures, VELCO and Vermont Transco are to maintain a debt-to-equity ratio of 3:1. Donleavy pf. at 3; HasBrouck pf. at 8.

14. The Joint Petitioners propose that Vermont Transco would be subject to and bound by, jointly and severally with VELCO, all conditions currently imposed on VELCO in the ownership, operation and management of the transmission system assets to be transferred to Vermont Transco, including but not limited to, transmission system assets presently under construction and to be constructed pursuant to Certificates of Public Good issued by the Board to VELCO, in each case as fully as though Vermont Transco were named as the applicant/petitioner in the proceedings pursuant to which such Certificates of Public Good were issued. In addition, Vermont Transco would be named as an additional applicant/petitioner in all VELCO proceedings presently pending before the Board. Stipulation of VELCO; exh. VELCO DWH-11.

15. Upon the formation of Vermont Transco and the issuance of proposed equity units, VELCO, CVPS and GMP each would own a controlling interest in Vermont Transco. VELCO's equity interest in Vermont Transco is anticipated to equal 31% at the end of 2006, and decline

thereafter. The equity interests of CVPS, GMP and all other Vermont electric distribution companies in Vermont Transco are anticipated to be in proportion to each electric distribution companies' average network load in 2005. HasBrouck pf. at 13; exh. VELCO DWH-7.

V. DISCUSSION

In their petition, as amended, the Joint Petitioners seek, on behalf of Vermont Transco, the following:

- (1) Issuance of a certificate of public good to Vermont Transco, pursuant to 30 V.S.A. § 231, to own or operate a business over which the Board has jurisdiction;
- (2) Board approval to sell, lease or transfer assets from VELCO to Vermont Transco, pursuant to 30 V.S.A. § 232;
- (3) Board consent to issue equity, bonds, notes or other evidences of indebtedness by Vermont Transco, and approval of the mortgaging or pledge of assets related to issuance of such forms of indebtedness, pursuant to 30 V.S.A. § 232; and
- (4) Approval of the acquisition of a controlling interest in Vermont Transco by VELCO, GMP and CVPS, pursuant to 30 V.S.A. § 107.

A. 30 V.S.A. §§ 231 and 232

In their original petition, the Joint Petitioners sought Board approval to form Vermont Transco under Section 102 of Title 30. However, it is not readily apparent that Section 102 applies to limited liability companies. Thus, it is unclear whether the Board has the authority under that statutory provision to issue a certificate of public good to Vermont Transco. Given this ambiguity, the Joint Petitioners twice amended their original petition to include requests for Board approval pursuant to 30 V.S.A. §§ 231 and 232.

Section 231(a) provides:

A person, partnership, unincorporated association, or previously incorporated association, which desires to own or operate a business over which the public service board has jurisdiction under the provisions of this chapter shall first petition the board to determine whether the operation of such business will promote the general good of the state.

Section 232(a) provides:

Except in connection with replacement or exchange, an individual, partnership or unincorporated association conducting such public service

business shall not make a sale or lease or series of sales or leases in any one calendar year constituting ten percent or more of its property located within this state and actually used in or required for public service operations or mortgage or pledge any of its property or issue any bonds, notes or other evidences of indebtedness without the consent of the public service board, given on petition and after opportunity for hearing and a finding that the same will promote the general good of the state.

As to Section 231, I conclude that the formation of Vermont Transco, for the purpose of owning and operating the Vermont bulk electric transmission system, is in the public good. The creation of a pass-through entity for income tax purposes provides for a reduction in the revenues necessary to provide transmission services to Vermont's electric distribution companies. In turn, these savings would flow through as a benefit to Vermont's retail electric consumers as the electric distribution companies would no longer have to pay for the income taxes that had been paid by VELCO. As a result, the revenue requirements of the electric distribution companies would also be reduced to reflect the lower cost of transmission services. With respect to the proposed 2006 equity offering, the estimated tax savings are \$637,000. Furthermore, the savings associated with these newly created tax efficiencies are likely to increase over time as additional equity is invested in Vermont Transco.⁵

Section 232 requires Board approval of the sale or lease of assets used in or required for the provision of a public service, the mortgaging or pledge of any such property, and issuance of any bonds, notes or other evidences of indebtedness. As stated above, the proposed transactions involve the sale of assets from VELCO to Vermont Transco. To effectuate the acquisition of the assets used in the provision of a public service subject to the Board's jurisdiction, Vermont Transco would also be required to issue bonds, notes and other evidence of indebtedness. Specifically, the Joint Petitioners propose to issue up to \$115 million in two separate bond offerings in the latter part of this year.⁶ The proceeds from the sale of bonds would be used to pay down existing short-term credit facilities and to fund ongoing reliability upgrade projects. In

5. HasBrouck pf. at 5-6.

6. Vermont Transco proposes to issue first mortgage debt in a similar manner as VELCO has done in the past. The first issuance entails the sale of \$35 million in Series Q bonds to be sold in August, 2006. The second proposed issuance entails the sale of \$80 million in Series R bonds to be sold in the fourth quarter of 2006.

addition, the Joint Petitioners request the Board's consent to issue evidence of indebtedness payable within one year up to a total of \$95,000,000, an amount that the Board authorized for VELCO in a letter dated December 16, 2005. This short-term debt would be used to provide liquidity to Vermont Transco and meet its financial obligations to the extent that such obligations exceed the capital raised during the bond and equity unit offerings.

For the same reasons stated above, I find that the proposed sale of property by VELCO to Vermont Transco is in the public good. Similarly, in order to effectuate the proposed sale, I also find that the issuance of bonds in an amount not to exceed \$135 million and the issuance of \$95 million in short-term debt will promote the general good of the state. Thus, I recommend that the Board issue an Order approving the petition.

B. 30 V.S.A. § 107

Section 107(a) states:

No Company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the public service board, or in any company which directly or indirectly has a controlling interest in such company, without the approval of the public service board.

30 V.S.A. § 107 defines "controlling interest" as ten percent or more of the outstanding voting securities of a company; or such other interest as the Board determines. The proposed transaction, if consummated, will result in VELCO, GMP and CVPS each acquiring a "controlling interest" in Vermont Transco.

The proposed transaction calls for the issuance of up to 7.8 million Class A units and up to 800,000 Class B units. Of the Class A units, 2.4 million units (31%) would be initially owned by VELCO in exchange for the transfer of certain assets and assumption of certain debt obligations. The remaining Class A and Class B units would then be distributed to VELCO's current owners in proportion to their 2005 average load. This method of distributing equity to the owners follows a similar method that VELCO has relied on for past equity offerings.

Forming Vermont Transco requires a substantial investment in the form of debt and equity-units. As the largest prospective owners of Vermont Transco, VELCO, GMP and CVPS would be required to provide most of the equity capital. Aside from VELCO's initial involvement in the funding of Vermont Transco, the proposed ownership structure of Vermont Transco would mirror the current ownership of VELCO. Thus, there are few differences

between the ownership structure of Vermont Transco and VELCO, notwithstanding the obvious exception that VELCO, itself, would become a substantial unit-holder of Vermont Transco. However, this controlling interest is mitigated by virtue of its ownership structure, i.e., the owners of VELCO would also be the owners of Vermont Transco. Additionally, there is nothing in the evidentiary record to suggest that an alternative ownership structure would be more advantageous.

Because the ownership structure of Vermont Transco will be similar to the ownership of VELCO, I find that the acquisition of a controlling interest in Vermont Transco by VELCO, GMP and CVPS will promote the public good in a similar manner as the current ownership structure of VELCO.

The Public Power Utilities request that in the event the Board approves the distribution of Vermont Transco units, subsequent offerings should be distributed in a similar manner. According to the Public Power Utilities, all Vermont electric distribution companies should have the opportunity to obtain a proportional share of the benefits resulting from the formation of Vermont Transco.

The Public Power Utilities' argument regarding the proportional sharing of benefits flowing from the current and future equity-unit offerings by Vermont Transco is persuasive. As stated above, the creation of Vermont Transco creates additional cost savings in the form of lower income tax expense. For these costs savings to flow back to Vermont's retail consumers, all of the Vermont electric distribution companies would need to continue holding a proportional share of Vermont Transco if they have the financial capability.⁷ If certain electric distribution companies are precluded from purchasing such units, then their proportional share of the monetary benefits flowing from the pass-through company would be lost. Therefore, I recommend that the Board condition its approval of the formation of Vermont Transco and, absent a determination by the Board to do otherwise, require Vermont Transco to provide a return on equity-units purchased by tax-exempt electric distribution companies that is sufficient

7. A proportional share of the benefits should include not only a provision that allows current unit-holders to purchase a percentage of any future units offered that is equal to a particular owner's proportional share of the total electric load in Vermont, but also a provision that provides tax-exempt electric distribution companies a return on units purchased that is sufficient to equalize, between taxable and tax-exempt electric distribution companies, the income-tax benefits flowing from the formation of Vermont Transco.

to equalize the benefits and savings between taxable and tax-exempt electric distribution companies.

C. Existing Certificates of Public Good

On May 5, 2006, the Department filed a letter with the Board stating that while the proposed transaction may result in tax savings, it may also have unintended ramifications on the oversight of existing certificates of public good and other ongoing planning processes. At issue for the Department at the time of its filing was the authority of the Board and the Department to regulate a limited liability company pursuant to 30 V.S.A. §§ 101 and 102. Upon further review and after the petition was amended, the Department modified its position and fully supported the petition.

To allay the Department's concerns, the Stipulating Parties filed with the Board a proposal for decision. In the proposal for decision, VELCO and Vermont Transco agree to be subject to and bound by, jointly and severally, all conditions currently imposed on VELCO in the ownership, operation and management of the transmission system in Vermont, including transmission system assets presently under construction and to be constructed pursuant to Certificates of Public Good issued by the Board to VELCO. Furthermore, Vermont Transco requests that it be named as a co-applicant/petitioner in all proceedings pending before the Board.

As stated above, it is clear that the Board and the Department have jurisdiction over Vermont Transco pursuant to 30 V.S.A. §§ 231 and 232. VELCO's and Vermont Transco's agreement to name Vermont Transco as co-petitioner in all current proceedings, and to be jointly and severally subject to and bound by existing Certificates of Public Good confirms this jurisdiction over Vermont Transco.⁸

D. Management Service Agreement

The Department asserts that the Management Services Agreement ("Management Agreement") between Vermont Transco and VELCO requires amendment. Specifically, the Department proposes to amend Section 8.6 of the Management Agreement to read as follows:

The rights and obligations of the Parties under this Agreement shall be modified to the extent necessary to comply with an order of FERC and/or

8. It is anticipated that VELCO and Vermont Transco would take steps necessary to bring Vermont Transco in as a party to other Board proceedings where appropriate, including Docket No. 7081.

of the Vermont Public Service Board; provided, however, that any such modification (including any modification of the definition of Functional Control and the scope of activities performed by each Party hereunder) shall preserve to the maximum extent possible the relative rights, obligations, and economic positions of the Parties hereunder as in effect prior to giving effect to such modification.

The Joint Petitioners did not object to the Department's proposed amendment and agreed to amend the Agreement.

Because the parties have come to a mutually acceptable agreement, and finding that such an agreement would not diminish the benefits of the proposed transaction, I recommend that the Board require that the Management Service Agreement be amended as proposed by the Department.

E. Department's Motion for Declaratory Ruling

On May 26, 2006, the Department filed a motion for declaratory ruling. In its motion, the Department requests that the Board, prior to issuing a certificate of public good to Vermont Transco, issue a ruling asserting its jurisdiction, under 30 V.S.A. § 101, over Vermont Transco and other similarly-situated limited liability companies. As mentioned above, the petition was subsequently amended to seek Board approval of a certificate of public good, pursuant to Sections 231 and 232, curing the potential infirmities of the original petition and making clear the jurisdiction of the Board and the Department over Vermont Transco. Because the Joint Petitioners no longer seek approval under Sections 102 and 108, there is no longer a basis for issuing the Department's requested declaratory ruling with respect to Vermont Transco in this proceeding.

The Department has also requested a declaratory ruling relative to similarly-situated limited liability companies. Because this proceeding specifically concerns the Joint Petitioner's request to form Vermont Transco, there is no record evidence on which to render a decision as to other limited liability companies. Thus, I recommend that the Board deny without prejudice the Department's motion for a declaratory ruling asserting jurisdiction over other limited liability companies operating in Vermont.

VI. CONCLUSION

Vermont's bulk electric transmission system has been undergoing a series of reliability upgrades. One of the upgrades, commonly referred to as the Northwest Reliability Project ("NRP"), which the Board approved in January, 2005, is currently under construction and is anticipated to be completed by the end of 2007. Other projects have also been approved by the Board⁹ or have been included in VELCO's long-range planning process.¹⁰ These upgrade projects are anticipated to be completed within the next three to five years. All of the projects, including the NRP, require substantial additional investment. These increases in infrastructure investment have the potential to lead to rising retail electric rates in Vermont (assuming all other revenue and cost factors are held constant). Forming Vermont Transco, however, would help to mitigate the impact of these investments on the retail electric rates of Vermont's consumers. Thus, I recommend that the Board approve the petition and issue a certificate of public good to Vermont Transco. The ownership and operation of the bulk electric transmission system by Vermont Transco will create new tax savings that are currently unavailable to VELCO and its owners. In turn, as these tax savings are realized, Vermont's retail electric consumers will benefit as the revenue requirements of the Vermont electric distribution companies will be reduced to reflect lower allowances for income taxes.

Dated at Montpelier, Vermont, this 20 day of June, 2006.

s/Thomas Lyle

Thomas Lyle
Hearing Officer

9. Approved projects include the Northern Loop and the Lamoille County upgrade, approved in 2003 and 2006, respectively. *See* Dockets 6792 and 7032.

10. Potential projects include upgrades in the Southern Vermont and Burlington Areas. Donleavy pf. at 3.

VII. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings, conclusions and recommendations of the Hearing Officer are hereby adopted.
2. The Board concludes that Vermont Transco LLC is subject to its jurisdiction and finds, in accordance with 30 V.S.A. § 231, that Vermont Transco's ownership and operation of the Vermont electric transmission system will promote the general good of the state.
3. The Department of Public Service's motion for a Declaratory Ruling with respect to the Board's jurisdiction over limited liability companies under 30 V.S.A. § 101 is denied without prejudice.
4. The Board concludes, in accordance with 30 V.S.A. § 232, that Vermont Transco's issuance of up to 2,400,000 Class A Units to Vermont Electric Power Company, Inc. ("VELCO") in partial consideration for VELCO's transfer of assets to Vermont Transco will promote the general good of the state, and the Board hereby consents to such issuance.
5. The Board concludes, in accordance with 30 V.S.A. § 232, that Vermont Transco's issuance of up to 5,400,000 Class A Units and up to 800,000 Class B Units to Vermont electric distribution companies, in each case at \$10 per Unit cash, will promote the general good of the state, and the Board hereby consents to such issuance.
6. The Board concludes, in accordance with 30 V.S.A. § 232, that Vermont Transco's issuance of Series Q first mortgage bonds in the aggregate amount of up to \$35 million and Series R first mortgage bonds in the aggregate amount of up to \$80 million, will promote the general good of the state, and the Board hereby consents to such issuance.
7. The Board concludes, in accordance with 30 V.S.A. § 232, that the sale and transfer by VELCO of substantially all of its assets to Vermont Transco, in exchange for up to 2,400,000 Class A Units and Vermont Transco's assumption of substantially all of VELCO's liabilities, will be consistent with the general good of the state, and the Board hereby consents to such transfers.
8. In accordance with 30 V.S.A. § 232(b), the Board consents to Vermont Transco issuing evidence of indebtedness payable within one year up to a total outstanding balance of \$95,000,000.

9. Pursuant to 30 V.S.A. §107, the Board concludes that the acquisition of a controlling interest in Vermont Transco by each of VELCO, Central Vermont Public Service Corporation and Green Mountain Power Corporation will promote the public good, and the Board hereby approves such acquisition.

10. Section 8.6 of the Management Services Agreement shall be modified to read in its entirety as follows: "The rights and obligations of the Parties under this Agreement shall be modified to the extent necessary to comply with an order of FERC and/or of the Vermont Public Service Board; provided, however, that any such modification (including any modification of the definition of Functional Control and the scope of activities performed by each Party hereunder) shall preserve to the maximum extent possible the relative rights, obligations, and economic positions of the Parties hereunder as in effect prior to giving effect to such modification."

11. Absent a future determination by the Board to allow otherwise, subsequent offerings of equity in Vermont Transco shall include an offer to the tax-exempt electric distribution companies a return on equity which is sufficient to provide for the equitable sharing of the Vermont savings and benefits associated with that equity offering in proportion to the amount of Vermont Transco equity subscribed and paid for by each of the Vermont distribution companies in such offering.

12. Vermont Transco shall be bound by the conditions and obligations, and entitled to the benefit, of each and every Section 248 certificate heretofore issued by the Board to VELCO, in each case as though Vermont Transco were named therein as a recipient and holder of such certificate, including particularly but without limitation those listed on the attached schedule A. The liability of VELCO and Vermont Transco for compliance with the conditions of such certificates shall be joint and several, and by acceptance of this Order without appeal, Vermont Transco irrevocably consents to and accepts the jurisdiction of the Board to enforce each and every such condition against it. Without limitation on the foregoing, Vermont Transco and VELCO shall file with the Board, within ten (10) days after issuance of this Order by the Board, a petition seeking to have Vermont Transco become co-applicant and co-permittee, jointly and severally, with VELCO, in: (i) Board Docket No. 6860 (the so-called Northwest Vermont Reliability Project); and (ii) Board Docket No. 7032 (the so-called Lamoille County 115 kV Project).

Dated at Montpelier, Vermont, this 20th day of June, 2006.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 20, 2006

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

Schedule A
VELCO Certificates of Public Good Dockets

DOCKET NO.	DATE ISSUED	DESCRIPTION
3384	September 25, 1969	Connecticut River crossing
3387	September 25, 1969	Middlesex Substation
3388	September 25, 1969	Chelsea Substation
3408	November 14, 1969	Barre to Comerford - 230 kV
3412	November 14, 1969	Vernon to Coolidge - 345 kV
3430	June 1, 1970	Lake Champlain Cable - 120 kV
3432	June 4, 1970	Moore Station to St. Johnsbury - 115 kV
3453	September 25, 1970	Queen City Tap from Williston to Queen City Park Road
3474	January 4, 1971	Blissville Substation
3481	March 3, 1971	Bennington to Arlington - 115 kV
3483	March 17, 1971	Georgia to Fairfax plus two substations - 115 kV
3794	April 15, 1971	New Haven Substation
3553	August 20, 1971	Irasburg and St. Johnsbury substations plus 115 kV line
3552	August 31, 1971	Transmission line across Connecticut River at Waterford
3747	August 3, 1973	Cavendish to Springfield plus Coolidge Sub - 115 kV
3751	October 1, 1973	Georgia generating station, substa.,line
3930	December 4, 1974	Shaftsbury, East Arlington Substations plus 115 kV from E. Arlington to Manchester
3957	January 23, 1975	Hartford 115 kV/46 kV Substa. and reconductor 115 kV
4043	August 8, 1975	Ascutney-Windsor line and substa.
4262	November 3, 1977	Florence Sub - 115 kV/46 kV
4452	March 25, 1980	Cold River Sub - 115 kV/46 kV
4523	January 27, 1981	Berlin Sub - GMP/VELCO
4564	June 21, 1981	Williston Sub
4594	September 4, 1981	Essex Substation - Add 24.75 MVAR cap bank
4622	December 1, 1981	HQ - PHASE I - interconnect HQ and NEPOOL
4639	January 11, 1982	VETCO
4650	March 1, 1982	South Hero Sub
4649	March 8, 1982	W. Rutland Sub Expansion
4803	July 21, 1983	Essex Sub - Add 46 kV transmission
4836	October 17, 1983	HQ Phase I - VETCO/NEET Construction financing
4905	May 15, 1984	Highgate Converter plus lines
4905-A	October 24, 1984	Highgate Converter - increase to 225 MW
4968	November 8, 1984	Highgate/Alburg Substations - Rebuild portion
5078	October 30, 1985	HQ - Phase II
5166	July 18, 1986	Milton Sub - Inductor
5236	June 16, 1987	HQ - GO 45 for 50 MW
5301	March 20, 1989	Georgia to Fairfax - 34.5 kV along with 115 kV
5366	July 17, 1989	Sand Bar to Essex rebuild
5384	November 22, 1989	DPS firm transmission
5407	February 2, 1990	Bonneville 115 kV
5584	February 19, 1992	Berlin Substation - cap bank
5730	March 30, 1994	Bennington Substation
5742	May 18, 1994	PV-20
5778	October 31, 1994	PV-20
6036	January 9, 1998	Ice storm construction
6038	January 16, 1998	Ice storm construction

6100	April 20, 1998	South Alburg
6252	October 7, 1999	Essex FACTS & Ring Bus
6375	April 3, 1999	Sand Bar Construction and other Stock Issues with CUC
6308	November 3, 1999	Tafts Corners - 248(j) Moving of Poles
6473	February 15, 2001	Queen City - Portable transformer 115/34.5 kV, joint petition, VELCO/GMP
6479	March 5, 2001	RRRP FILING, Coolidge-West Rutland, additions to transm. In W.Rut./Cavendish
6792	July 17, 2003	Northern Loop filed 12/20/02
6816	February 28, 2003	Cold River Substation
6816	May 5, 2003	Cold River 248j - Substation Upgrade
6839	April 1, 2003	Tafts Corners - 248
6852	April 23, 2003	Sand Bar PAR
6860	January 28, 2005, revised	
	March 11, 2005	NRP
7032	March 16, 2006	Lamoille County Project

* NOTE: this list includes the most current available information from VELCO's records, but may not include each CPG or order. For many years after its inception, VELCO's records were kept by CVPS – some data may not be complete.